

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 266 of 1996
with
COMPANY PETITION No 267 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAYOGA CHEMICALS PVT.LTD.

Versus

MUKAMBIKA YARN PVT. LTD

Appearance:

MR MIHIR H JOSHI for Petitioner

MR HARUBHAI MEHTA, Senior Standing Counsel for the Central Government with Mr. B.T.Rao in Company Petition No. 266 of 96, and Mr. Bharat Rao, Addl. Standing Counsel for the Central Government in Company Petition No. 267 of 97.

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 17/11/97

ORAL JUDGEMENT

1. The present orders shall govern the disposal of

these two Company Petitions.

2. These are the petitions filed by two companies, namely, Mayoga Chemical Pvt. Ltd. and Mukambika Yarn Pvt. Ltd., for amalgamation of the former with the latter under Section 391 read with Section 394 of the Companies Act, 1956.

3. Mayoga Chemical Pvt. Ltd., the transferor company was originally engaged in the business of twisting of yarn and trading in chemicals and after the disposal of the twisting plant in 1993-94, is presently engaged in the business of trading in chemicals. Mukambika Yarn Pvt. Ltd., is presently engaged in the business of trading in cloth and chemicals. Both these companies belong to the same management group. The financial position of both the companies is sound on the basis of the reserve and surplus position. The petitions give details of the advantages that would flow by virtue of the amalgamation of the companies. The scheme of the amalgamation has been approved by all the share-holders of both companies in the form of written consents. It is also approved by all the creditors of the companies in the form of written consents. On account of the limited number of share-holders and creditors and written consents to the scheme of amalgamation for which sanction is sought for by way of the present petition, the meeting of the share-holders and creditors as contemplated under Section 391(2) of the Companies Act, 1956 were dispensed with by orders of this Court (Coram: A.R. Dave, J.) dated 30.10.96. After the petitions were admitted, they were advertised by notice of petition dated 17.1.1997 in the newspapers and no one has come forward opposing the sanction of the scheme of amalgamation.

3(A). Mr. Joshi for the petitioner in each of these petitions places on record a true copy of the resolution passed by the Board of Directors (by each of the two companies) whereby the period of obtaining orders of this Court contemplated by Clause 19 of the Scheme is extended upto March 31, 1998.

4. Notice of the petitions have been served upon the Central Government and Shri Harubhai Mehta, Senior Standing Counsel and Mr. B.T.Rao, Additional Standing Counsel for the Central Government appearing in the matters have stated that as per the instructions received by letter dated 24.10.97, copy of which is submitted and ordered to be placed on record, it has been decided not to make any representation in the matter and the petitions may be left to be decided by the Honourable

Court on merits. Notice of the petition has also been served upon the Official Liquidator as required under the second proviso to Section 394(1) of the Act and the Official Liquidator has filed his report dated 17.7.1997 stating that the affairs of the transferor company have not been conducted in a manner prejudicial to its members or to public interest.

5. I have heard Mr. Joshi, learned Advocate for the petitioner-Companies. Having gone through the petitions, I am satisfied that the amalgamation would be in the interest of the companies and their members. Under the circumstances, the scheme of amalgamation at Annexure-C to the petition is sanctioned in both the petitions. Prayers in terms of para 18 (A) are granted.

6. The petitions are disposed off accordingly. So far as the costs of the Central Government is concerned, I quantify the same at Rs. 3500/- in each petition.

Amp/-